

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

PROGRESSIVE CASUALTY INSURANCE )  
COMPANY, )  
Plaintiff, )  
v. )  
GEORGE A. LUNA, )  
Defendant. )

Case No. 4:05-cv-4194-JPG

**ORDER**

On September 1, 2006, this Court held a discovery dispute conference in which the plaintiff was represented by attorney Cody S. Moon and the defendant was represented by Terry M. Green. The plaintiff requested the conference because the defendant failed to respond to interrogatories and requests to produce that were served on April 11, 2006. The plaintiff requested various sanctions including the striking of the defendant's answer and affirmative defenses.

The defendant admitted that he had failed to timely respond to the discovery requests. However, the sanctions that the plaintiff seeks are overly draconian at this point in the litigation. There has been no previous order compelling the defendant to respond to discovery such that sanctions would be appropriate pursuant to Federal Rule of Civil Procedure 37(b). Nonetheless, the defendant has not timely responded to the discovery requests and **SHALL** respond by **September 11, 2006**. In addition, as the deadline for response has passed and the defendant has offered no good cause, the defendant **SHALL** respond without objection pursuant to Rule 33(b)(4) and 34(b).

Even though this Court is not considering sanctions at this juncture, the defendant's

failure to timely respond to discovery has compromised the schedule in this matter. Due to the failure to respond to written discovery in a timely manner, the deadlines for depositions and expert disclosures have elapsed. Therefore, the defendant is **WARNED** that the failure to respond by the deadline **SHALL** result in the setting of an in person show cause hearing wherein the defendant, himself, will explain why he has wholly failed to respond to discovery served four months ago. To that end, the defendant shall FAX to chambers his discovery responses by the deadline. The Court's FAX number is 618-482-9277.

The parties shall contact chambers if a new scheduling order is required.

**DATED: September 6, 2006**

s/ *Donald G. Wilkerson*  
**DONALD G. WILKERSON**  
**United States Magistrate Judge**